



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

NORTH AMERICAN REVIEW.

No. CCCLI.

FEBRUARY, 1886.

THE CONGO CONFERENCE AND THE PRESIDENT'S MESSAGE.

THE conditions under which commerce should be conducted with Central Africa for all future time, and the securities to be afforded to the persons and institutions of Christian civilization established there, were deemed by fourteen foremost nations of the earth to be of sufficient importance to justify an international consultation on the subject. The resolutions of this assembly were believed by thirteen governments to be so useful as to merit approval. It seems that our Government, or rather its executive officer, holds them of so little importance as not to deserve the consideration of the American senate. So it appears by the following extract from the President's message:

“The action taken by this Government last year in being the first to recognize the flag of the International Association of the Congo has been followed by formal recognition of the new nationality which succeeds to its sovereign powers.

“A conference of delegates of the principal commercial nations was held at Berlin last winter to discuss methods whereby the Congo Basin might be kept open to the world's trade. Delegates attended on behalf of the United States on the understanding that their part should be merely deliberative, without impart-

ing to the results any binding character, so far as the United States were concerned. This reserve was due to the indisposition of this Government to share in any disposal by an international congress of jurisdictional questions in remote foreign territories. The results of the conference were embodied in a formal act of the nature of an international convention, which laid down certain obligations purporting to be binding on the signatories, subject to ratification within one year. Notwithstanding the reservation under which the delegates of the United States attended, their signatures were attached to the general act in the same manner as those of the plenipotentiaries of other governments, *thus making the United States appear, without reserve or qualification, as signatories to a joint international engagement imposing on the signers the conservation of the territorial integrity of distant regions where we have no established interests or control.*

“This Government does not, however, regard its reservation of liberty of action in the premises as at all impaired; and holding that an engagement to share *in the obligation of enforcing neutrality in the remote valley of the Congo would be an alliance* whose responsibilities we are not in a position to assume, I abstain from asking the sanction of the senate to that general act.”

Are these official observations justified? Or has the President been ill advised, and his message been made the vehicle of wholly erroneous statements?

A slight inquiry by the Secretary into diplomatic law, or into the text of the document, would have assured him that his implication that the United States delegates had surpassed their instructions in certifying by their signatures the final acts of the conference was wholly gratuitous. That signature did not make the United States appear as signatories “without reserve or qualification.” Not only was the reserve and qualification—that the whole was subject to approval by the home government—contained in the acceptance of the invitation itself, but it was embodied in the text of the final Act which provides that it shall only take effect for each power when that power shall have ratified it. (*Il entrera en vigueur pour chaque Puissance à partir de la date où elle l'aura ratifié.*) Even without this express reserve, by general diplomatic usage the conclusions of an international conference can never be binding on governments until they are ratified. Their signatures gave it no “binding character.” It is to

be regretted that the President has thus seemed to ignore both the text of the document and international usage.

But the more important questions relate to the conclusions themselves of the conference and their importance to American interests, present and future. The President admits the need of regulated relations with that region by submitting recommendations for commercial agencies there, and by having formally recognized its principal nationality, although it occupies only about one-third of the country affected. With this nation, as with nearly all the rest of the region, we have no diplomatic or consular arrangements or securities unless those adopted by the conference are accepted. Certainly then it is worth the trouble to inquire what the delegates of so many nations did actually recommend for the common interest of all in their future relations with one-third of a great continent.

A meeting of the principal governments of the world for the sole purpose of promoting the peace of nations, the interests of international commerce and the progress of Christian civilization is an event so unusual that it deserves more than superficial attention. History records many such meetings of powers in order to restrain or ratify warlike aggressions, to regulate the balance of continental power, to define political jurisdictions, or to divide the fruits of conquest. In late years however, and at the primary invitation of the United States, they have repeatedly assembled for the regulation of postal communications between themselves, and for an agreement on scientific questions. Once they have met to capitalize and apportion the payment of the Scheldt dues, which were a burden on international commerce and in the issue of which our Government participated. An examination of the record of the Berlin Conference of 1884, will show a meeting on a still higher plane, suggested by the discoveries of an American citizen, and by the political action of the United States in recognizing a new-born State.

Within the last two decades travelers had forced their way up the Nile, and from Mozambique westward, until the great lakes of Central Africa and the thickly populated country around them had been discovered and partially explored, and a great river found whose destination and commercial utility were unknown. To the task of solving this doubt an American devoted himself with rare sagacity, intrepidity, and pluck. Undeterred by savage nature

and more savage man, he, during nine hundred and ninety-nine days, traversed a continent which had been dark during all historic ages, and displayed the flag of the newest great nation of time to the most unknown people of the earth. From a line less than one hundred miles from the eastern coast of Africa, until he saw the rise and fall of the Atlantic tide in the Lower Congo, Stanley saw neither fortress, nor flag of any civilized nation, save that of the United States, which he carried along the arterial watercourse of a region inhabited by a people estimated at more than forty millions in number.

Thus was opened up a vast field for the operations of Christianity, of civilization, and of commerce. The American Government claimed nothing from the right of discovery. The enlightened King of the Belgians, mourning the loss of an only heir to his throne, resolved to dedicate a royal fortune to the founding of a free and progressive state in the newly discovered center of a populous continent. Routes were opened, stations established, officers appointed and the work begun. The first appeal for recognition and for moral support was naturally and justly made to the Government whose flag was first carried across the region. The President and Senate responded favorably to the appeal and recognized the occupation as lawful, being founded on treaties having the consent of the native authority, and promising equal and just treatment to all American interests.

But European commercial interests were also involved. European consent was needed. Europe embraced all the colonizing powers. Two of them were already pushing forward their colonial claims to this region. Both of these governments had, for generations, adopted the policy of colonial monopolies, excluding other commercial nations from access to their colonies except on terms of great inequality. Should this region fall under such control, not only the trade and influence of the country which claimed its discovery, but of all other non-occupying governments, would be practically excluded from its benefits. All these nations had a common interest in establishing there the liberty and equality of trade, and in the contribution of civilizing influences. The missionaries of the United States churches were there. Some American manufacturers were making their way there. Six millions of the African races now in America might yet contribute a useful emigration in aid of its civilization. We were already the

principal consumers of one of its chief products. In much less time than our own Mississippi valley was opened and settled after discovery we might expect the opening up of a profitable trade with the Congo valley and the Lake region of Central Africa, if we could have free access to it from the east and west. The first steps are always doubtful, sluggish, expensive. Later, modern nations march with rapidity and security. How should the United States and other non-possessory nations obtain their equal rights of intercourse with this vast region? How should they be treated among its present and rival occupants? And how should it be known which colonial power really and rightfully controlled the oceanic gateways to this region?

These comprehensive international questions presented themselves to the far-seeing mind of Germany's great statesman—not only Germany's but the world's foremost statesman. They must be settled before indefinite claims had crystallized into rights of unquestioned possession and before the old regime of colonial exclusiveness should be established never to be uprooted. France was already pushing her colonial adventures to the northern bank of the Congo. Portugal was claiming the south bank and indefinitely eastward, claiming indeed both banks by right of prior discovery of only the mouth of this great river. Other European powers were founding establishments and interests there.

The German Chancellor decided to invite a Conference of the commercial nations to consider the questions of, first: Liberty of trade in the Congo basin; second: Freedom of navigation in the Congo and Niger rivers on the basis of that established on the Danube and other international rivers; and, third: What formalities should be observed in order to further effective occupations of territory on the African coasts. In connection with the Government of the French Republic invitations were issued to and accepted by, twelve national governments, which with the inviting powers, constituted a Conference of fourteen nations, in which the minor countries like Denmark and Holland had a voice and veto equal to that of the Great Powers. All questions of forms of government and of territorial right or jurisdiction were excluded from the consideration of the Conference. No dynastic question could be considered. The only non-commercial question before them, if indeed this were not also one, was that which affected the government intending hereafter to occupy parts of the African

coasts. To them was addressed the inquiry, what will you agree to do to make certain your occupation of any part of the coast? Every government represented was left absolutely free to agree or disagree to the results of the Conference.

The United States very wisely participated in its deliberations for the protection of its own commercial interests, present and future, against colonial exclusiveness and for the promotion of those views which had already induced the President and Senate to recognize the first free government established in Central Africa. The assembled delegates naturally divided themselves into two groups: those whose governments had colonized or intended to colonize that region, and would therefore like to control its trade, like France and Portugal; and those who, like the United States, only wished for their people liberty of access and equal rights of trade, and the free exercise of their religion and civilizing influences in that newly discovered country. The only essential differences arose from this conflict of interests which at one time threatened to be serious. Under the wise guidance of the German delegates and with the aid of discreet and temperate diplomatists like those representing Italy, England, and Belgium, accord was finally established. It would be an agreeable task to the writer of this article, and not without public interest, to give a sketch of all the accomplished ambassadors and ministers representing the civilized world whose wisdom and moderation contributed to this result. But that description must give place here to the more important definition of their work.

I.

The first of the declarations of the Conference relates to the "liberty of commerce in the basin of the Congo, its embouchures and neighboring countries, together with certain dispositions connected therewith."

This declaration constitutes an agreement on the part of all the governments adhering to it that the commerce of each of their nations shall enjoy complete liberty in all the region drained by the Congo and its affluents, including therewith Lake Tanganyika and its eastern tributaries: also in the Atlantic zone lying on both sides of the Congo basin proper between latitude $2^{\circ} 30'$ south, and the river Logé, prolonging these lines eastward from the Atlantic until they reach the Congo basin: *also*, in the zone lying eastward

of the Congo basin and situate between the 5th degree of north latitude and the river Zambesi on the south and extending to the Indian Ocean on the east. But it was expressly understood that the provisions should only apply to the territories of any independent power in this eastward zone (like Zanzibar) after such Government should give its assent; and the Conference powers agreed to use their influence to obtain this consent.

It was also agreed that all flags without distinction of nationality shall have free access to all the shores of the above territories; to all their rivers flowing into the sea; to all the waters of the Congo and its affluents, and to the lakes, and all connecting canals which shall be made and to all the ports on their borders; with liberty of coasting trade and boating by sea and river. No other taxes should be imposed than as an equivalent for the expenses incurred for the benefit of commerce itself. And every sort of differential treatment of ships and merchandise is prohibited. All kinds of commercial monopoly and exceptional privilege are agreed to be forbidden. Absolute equality among nations is established and their commercial rights are to be the same as those of the possessory government. Strangers shall have the same personal rights as the allegiants for pursuing their professions, for acquiring and transmitting property, both personal and real, and generally shall enjoy the same protection and the same treatment.

Not only do the possessory powers agree to all this. They further pledge themselves to care for the preservation of the native races and for the amelioration of their moral and material condition, and to strive for the suppression of slavery, and especially of the slave trade. They pledge themselves to protect and favor, without distinction of nationality or forms of worship, all religious, scientific and charitable enterprises tending to the instruction and civilization of the natives. The possessory powers further guarantee liberty of conscience and religious toleration to natives and strangers and citizens, together with the right of all to erect places of worship and to organize missions without any restriction. (Article 1-6.)

To what of all this does the Secretary of State object? What is there in it that is not profoundly acceptable to the American People? Is it not the very substance of the American Constitution extended to the heart of Africa?

II.

The regions to be covered by the declarations of the Conference contain the great fields from which the odious slave trade is recruited, and where its horrors continue and its routes are marked by human bones and blood. The governments represented, therefore, recognizing this horrible traffic and the operations by which slaves were furnished for it as interdicted by the law of nations, on the demand of the British ambassador excluded it from the commerce to which liberty was to be secured ; and on the demand of the American minister, who reminded the conference of six millions of emancipated blacks in the United States, the possessory powers pledged themselves that their territory should afford neither routes of transit for the slave trade nor markets for it ; and that they would employ all the means in their power to put an end to this commerce and to punish those engaged in it. This was a most important step forward in the progress of humanity. (Article 9.)

Does Mr. Bayard object to this second declaration ? Is he unwilling to receive this engagement made by the African powers ? Do not the American People approve it ?

III.

“In order”—says the third declaration of the Conference—“to give a new guaranty of security to commerce and industry, and by the maintenance of peace to favor the development of civilization in the countries mentioned in the first article and placed under the regime of commercial liberty, the high signatory parties of the present act, and those who shall hereafter adhere to it, engage themselves to respect the neutrality (*s’engagent a respecter la neutralité*) of the territories or parts of territories depending on the said countries, including therein the territorial waters, so long as the powers who exercise or shall exercise sovereignty or protectorate over these territories, making use of their option to proclaim themselves neutral shall fulfill the duties which belong to neutrality. (Art. 10.)

This is the precise translation of the declaration on which Mr. Bayard seems to rest the objection of the President to even present the conclusions of the Conference to the Senate. In the message he calls it—for there is absolutely nothing else in the whole act of the Conference to which the wildest imagination could apply his phraseology—he calls this, “a joint international engagement im-

posing on the signers the conservation of the territorial integrity of distant regions where we have no established interests or control!" He further uses, with special reference to the neutrality clause, the following language: "Holding that an engagement to share in the obligation of enforcing neutrality in the remote valley of the Congo would be an alliance whose responsibilities we are not in a position to assume, I abstain from asking the sanction of the Senate to that general act."

The State Department should really invoke the forbearing judgment of our countrymen. There really are people enjoying salaries in the State Department who, if sufficient time had been allowed, could have translated the words *s'engagent a respecter la neutralité*. Most schoolboys reading English would inevitably have stumbled on its meaning. It is only by a very high flight of imagination that these simple words can be converted into an "obligation of enforcing neutrality," and "an alliance whose responsibility we are not in a position to assume." Surely the Secretary of State is not ignorant that, by international law, we are always bound to "respect the neutrality" of another independent country which itself performs the duties of a neutral toward us. So far, therefore, as the Congo free state is concerned the declaration was only a promise by each government for itself to observe the existing law of nations. But there were included in this broad zone dedicated to free commerce colonies, or parts of colonies, of European powers. There might be many more to come, as well as commercial establishments without colonies. These powers might be at war in Europe on merely European questions. If such alien wars were carried into this part of Africa and among their barbarian subjects they would revive all savage instincts, with the lusts of rapine and slaughter. Thus, in a few months, would be ruined the commercial enterprises, the religious institutions and the civilizing influences of many years. The American minister reminded the Conference of this danger, and referred to the bloody massacres in American colonies at the time of the Franco-English wars preceding our Revolution. France, which already had colonies here, at first objected to any agreement limiting her option to make war from or to carry war into these colonial regions where the Conference had already agreed to the dominant principles of commercial liberty and Christian civilization. But the proposition was finally agreed to in the conditional form above quoted.

Even France accepted it as a partial concession to the future peace and good order of this vast barbaric region. Thus, each government engaged itself to respect the neutrality of all this region, even while war raged between the possessory powers elsewhere, provided the duties of neutrality were observed in this region itself. Thus came the recognition of a rule of existing law to be applied to an African colony of a belligerent, provided the colony was proclaimed neutral, and should take no part in the war ; and it was also applied in the interest of the neutrals themselves, such as the United States are and are likely to remain. All this could have been learned, and more fully, by a simple reading of the protocols. But how should they be read at the State Department when even the principal text was not read ?

In this spirit of peace and progress, as well as in the line of our own treaty agreements with England for the encouragement of peace by arbitration, the Conference advanced a further step. In another clause of this declaration it is said, if a power exercising sovereignty or protectorate in these regions of free commercial liberty should be involved in war, the government agreeing to the resolutions of the Conference promise "their good offices" that the territories of such power, situate in this free zone, may be, with consent of both belligerents, placed for the duration of such war under the regime of neutrality and considered as belonging to a non-belligerent state ; the belligerents may thenceforth renounce the extension of hostilities to these territories, as well as renounce the use of them as a base for the operations of war. (Art. 11.)

In case a serious dissension on the subject of or within the limits of these free territories should arise between the powers agreeing to the acts of the Conference, these dissentient powers, before appealing to arms, promise to have recourse to the mediation of one or more friendly powers ; or may take their option to refer the difference to arbitration. (Art. 12.)

Where in all these arrangements for the peace and good order of this region does the Secretary find "a joint international engagement imposing on the signers the conservation of the territorial integrity of distant regions ?" Where does he find "the obligation of enforcing neutrality in the remote valley of the Congo ?" Can a Secretary of State for Foreign Affairs find no distinction between a simple promise of a government to respect an existing

neutrality, and an alliance to enforce neutrality on a warring state ?

The blunder put into the President's mouth is so stupendous as to be incredible, except to those who have the original text before them. Thirteen governments of the world will read the misstatement of the message with amazement. In no other country could such an error in so high a document pass without surprise on the part of the people, and regret on the part of the authorities responsible for it. The error is less excusable because the protocols show how many clauses were changed on the suggestion of the American minister, to avoid every appearance of joint liability or joint guaranty, or any other like obligation on the part of the United States. The obligation of this Government is for itself to respect the principle to which it agrees.

I challenge the Secretary of State after the closest scrutiny of the act to quote a single clause in the entire text of the General Act of the Conference, which imposes any obligation whatever on the United States to employ a soldier or sailor or to expend a dollar to enforce neutrality or territorial integrity or any other condition or action on any other government or territory whatever. I further invite him to quote a single phrase in that text which creates an alliance with any other government on the earth for or against any other nation or territory in the world. Until such article of the text is shown the American people may well believe that their minister at that Conference—whose experience in public affairs has been cotemporaneous with that of the Secretary of State, and whose fidelity to American principles and traditions of policy is certainly equal to his—has faithfully guarded these principles and traditions throughout the action of the Conference. So marked was the acceptance by the Conference of the views presented on the part of the United States that Herr Von Bunsen, reviewing the action of the Conference, assigns after Germany the first place of influence in the Conference to the United States.

IV. AND V.

The fourth and fifth of the resolutions of the Conference establish an agreement that the two greatest commercial rivers of Western Africa, the Niger and Congo, as well as all artificial waterways or railroads connecting their waters respectively, shall forever remain open to the navigation and commercial use of all nations,

on terms of perfect equality. No embarrassing or discriminating regulations shall be applied ; and other national interests shall have the same liberty and rights on these rivers as those of the possessory powers. No nation may create a monopoly on either river. This navigation is to remain forever free and open to neutral commerce, even in time of war.

The Secretary must remember numerous negotiations on our part in the past, in order to secure less complete privileges in other great international rivers opening from the sea to the interior of continents. Never before have the principles of anti-monopoly been so largely applied and so sweeping, as in the General Act of this Conference. Is there nothing of value in these permanent concessions made by England and France on the Niger, where regular lines of steam navigation now exist, and by all the nations on the Congo, also now occupied by steamers ? Or, does the Secretary think so poorly of the spirit and enterprise of Americans as to believe we shall never more have ships and an ocean trade ? The late administration looked to an early time when American enterprise should again display the American flag on all Atlantic waters, covering both vessel and cargo with its protection ; and they deemed it a duty to prepare the way for the restoration of its prosperity.

Has the present Government no such hope, no such desire ? Will not the American people gladly accept these concessions, freely made and made forever ?

VI.

The sixth and last of its declarations of policy chiefly concerns the possessory powers. It requires them, if they make new occupations on the coast of Africa, to notify the other governments of the fact, that they may be in a position to make reclamation if required. They also recognize the obligation to assure, in such territories occupied by them on the coast, an authority sufficient to make acquired rights respected, as well as the liberty of commerce and of transit where that is stipulated. So far as this interests non-occupying governments it adds a new security for the commerce and enterprise of their people on the coasts of Africa.

Finally, in all the act under review there is not a clause touching "conservation of territorial integrity" or "enforcing neutrality." There never was a "jurisdictional question" presented for

consideration. The reserve touching the "binding character" of the act was the same on the part of all the governments. None were bound until the reserved ratification was effected. The Department of State should have remembered that the same act was signed by Belgium, itself a neutralized state under protection. It certainly would not by a possible pledge of war expose itself to a loss of its neutral advantages. The signatures to the act were the same as to the protocols of each of our deliberations, which certified to the several declarations concessively adopted. They simply certified the ensemble of the conclusions to which the Conference had unanimously come. Different ministers made reserves throughout the Conference. All delegates, however, signed the final instrument which set forth only the resolutions which were finally and unanimously accepted, and this was styled "A General Act." Had the State Department taken the precaution to read the General Act before intimating that the United States minister had, in signing, exceeded his authority, it would have found in the very opening language that the act was a simple certificate of the propositions which the delegates "have successively discussed and adopted;" —*ont successivement discuté et adopté* is the precise recital of the text. It further certified that they thought it useful to assemble their declarations in one instrument which they styled "The General Act." Every separate declaration had been promptly reported to the American Government—not one had been disapproved. A neutrality proposition going still further had been specially approved by the administration then in office. The form of this act was adopted by the Conference, instead of the form of treaty, expressly to meet the objections made to the latter form by the American minister; and in order to obviate all just scruple touching the mere form of the instrument. The Conference was expressly notified that we would undertake no joint obligation of any kind. It went further at our request, and provided (Art. 37) that powers not signing might "adhere to its dispositions by a separate act." The General Act was thus certified to be correct by the signatures of the delegates on the 26th of February last, and before the accession to office of the present administration.

With great personal respect for the present Secretary of State, I hold it a duty, not only to myself and to the Government whose agent I was, but to the truth of history itself, to correct the misinformation touching this international instrument which has

found place in so grave a document as the annual message of a President of the United States.

There remains only the question, what do we gain by this act of the Conference?

We secure freedom and equality for our vessels and our commerce in all time and through all progressive developments to come, in an area broader than the United States and extending from the Atlantic to the Indian Ocean, together with all its interior waters, and over the canals and railroads connecting them. We secure the abolition of all monopolies, private or corporate. This is to continue, whatever the present sovereign jurisdiction, or the changes of governments to come, and whether they be independent states or colonial dependencies, and in time of war as well as peace. We secure freedom and equal protection for the persons of Americans whether traveling or resident there, for their property, and for the pursuit of their professions and enterprises of every sort. We gain security for the American missionaries, churches, and schools, now or hereafter to be established, and absolute liberty of commerce and freedom of worship. We gain pledges for the extinction of the hateful slave trade. In a word, we gain everything which we could gain by owning the country, except the expense of governing it. What we gain here by adhering to this act is what elsewhere we have been for a hundred years unable to gain by special negotiations with each individual government, from whose colonial possessions we are until this day either excluded or only admitted upon ruinous terms of discrimination.

On the other hand, what do we yield in exchange for this? Neither land, nor soldiers; neither money nor liability to expenditure; neither jurisdiction nor revenue. We simply agree to recognize in other nations the same rights in Central Africa which are conceded to us; and we agree to use our "good offices" with the governments on the eastern coast to obtain their consent to apply the liberal provisions of the act to their territories: in other words, to further our own interests. We further agree to lend our "good offices"—*bons offices*, says the text and only that—to persuade a belligerent having possessions in this free zone, and with the consent of both belligerents, to adopt neutrality for these possessions during any war. These are the engagements, and the only engagements for action, which we assume toward other governments. But this pledge of our "good offices" is hardly startling

enough to shock the timidity of an administration which represents the spirit of the American people.

The only grounds upon which the President is made to rest his objections to the work of the Conference *do not exist*. If they existed the work ought not to be and would not be ratified by the Senate. Being non-existent the act should be approved by both President and Senate in justice to the present and future interests of the United States, and in the interest of civilization itself. If too late to adopt it by simple ratification, it should be accepted by a "separate act," for which it makes provision.

JOHN A. KASSON.